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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,540	10/27/2003	Kanji Tanaka	38195.54	3652

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EXAMINER

GATES, ERIC ANDREW

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/694,540	Applicant(s) TANAKA ET AL.	
	Examiner Eric A. Gates	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-10, in the reply filed on 29 March 2006 is acknowledged.
2. Claims 11-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 29 March 2006.

Claim Objections

3. Claims 8-9 are objected to because of the following informalities:
 - a. Claim 8 recites the limitation "the elastic member" in lines 1-2 and the limitation "the substantially cylindrical slide portion in line 4. There is insufficient antecedent basis for these limitations in the claim.
 - b. Claim 9 recites the limitation "the elastic member" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucchesi (U.S. Patent 2,715,906) in view of Cheng (U.S. Patent 6,036,394).

6. Regarding claim 1, Lucchesi discloses a binder 1 comprising: binding rings 4b/5b; a holding member 17 having a length that allows said binding rings to be arranged with a spacing therebetween; and an operating member 3 on a surface of which said binding rings are anchored at bases 4c/5c thereof with spacing therebetween, and which is movably fixed to an inner side of said holding member such that the binding rings are fixed to the holding member; the operating member including a pair of operating pieces 4/5, one of which moves within the holding member in a longitudinal direction of the holding member, and a pivot shaft portion 9 arranged along abutting edges of said pair of operating pieces; one of the bases 4c of each of the binding rings 4b being fixed to one of said operating pieces 4 and the other of the bases 5c being fixed to the other operating piece 5; the binder also including an opening/closing member 15 that, for opening the binding rings, moves the operating piece 5 within the holding member 17 in the longitudinal direction of the holding member 17.

Lucchesi does not disclose that both operating pieces move within the holding member in a longitudinal direction of the holding member, that both operating pieces move within the holding member in the longitudinal direction of the holding member. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have replaced the stationary operating piece 4 with another

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movable operating piece 5 for the purpose of design choice, because it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art

Lucchesi also does not disclose that the opening/closing member rotates the pair of operating pieces around said pivot shaft portion in directions so as to open the binding rings. Cheng teaches the use of an opening/closing member 20 that rotates a pair of operating pieces 11/12 around a pivot shaft 37 for the purpose of decreasing the manual input force required to open the binder. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binding element of Lucchesi with the opening/closing member of Cheng in order to have a binder that is easier to open.

7. Regarding claim 2, the modified invention of Lucchesi discloses wherein substantially cylindrical slide portions 12/13/14 are provided along the abutting edge of one of said operating pieces 5 at spaced intervals and cylindrical slide portions 7/8 are disposed along the abutting edge of the other operating piece 4 so as to be loosely fitted between said substantially cylindrical slide portions, a pivot shaft 9 being arranged to pass through the substantially cylindrical slide portions.

8. Regarding claim 3, the modified invention of Lucchesi discloses wherein the opening/closing member 15 is provided in a gap defined between the substantially cylindrical slide portions of the operating pieces (see figure 4).

9. Regarding claim 4, the modified invention of Lucchesi discloses wherein a gap is defined between the substantially cylindrical slide portions of the operating pieces so

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that the opening/closing member 15 is provided in the gap (see figure 4); and an inner end of the cylindrical slide portion 7 of one of the operating pieces 4 faces said gap, and, in opposition to the inner end, an inner end of the substantially cylindrical slide portion 14 of the other operating piece 5 faces said gap.

10. Regarding claim 5, the modified invention of Lucchesi discloses wherein a first pivot shaft piece 12 is disposed at the abutting edge of one of the operating pieces 5, a second pivot shaft piece 7 is disposed at the abutting edge of the other operating piece 4 to be overlapped with the first pivot shaft piece, and a pivot shaft 9 is passed between said first and second pivot shaft pieces.

11. Regarding claim 6, the modified invention of Lucchesi discloses wherein a gap is disposed at the abutting edges of the operating pieces 4/5 so that the opening/closing member 15 is provided in the gap (gap is area between pieces 4/5 as seen in figure 4), a gap-side inner end of one of the operating pieces faces the gap, and, in opposition to the gap-side inner end, a gap-side inner end of the other operating piece faces the gap.

12. Regarding claim 7, the modified invention of Lucchesi discloses wherein said opening/closing member 15 includes an elastic member 15, and said elastic member is provided between a pair of operating pieces 4/5 constituting said operating member 3 for moving the pair of operating pieces in the opposite directions (per modified invention of Lucchesi in claim 1), respectively, and for elastically urging the pair of operating pieces 4/5 in the directions to hold the binding rings 4b/5b in the opened state.

13. Regarding claim 8, the modified invention of Lucchesi discloses wherein the elastic member 15 includes a coil spring and the coil spring is wound around the pivot

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shaft 9 of the operating member 3, and arranged in contact with the substantially cylindrical slide portion 14 of one of the operating pieces 5 of the operating member and with the substantially cylindrical slide portion 7 of the other operating piece such that one end of the coil spring 15 presses one of the operating pieces 4 of the operating member 3, and the other end pressing the other operating piece 5.

14. Regarding claim 9, the modified invention of Lucchesi discloses wherein the elastic member 15 includes a coil spring 15, and the coil spring is wound around the pivot shaft portion 9 and is arranged in contact with a gap-side inner end of one of the operating pieces 4 and with a gap-side inner end of the other operating piece 5 such that one end of the coil spring presses one of the operating pieces of the operating member, and the other end pressing the other operating piece (see figure 4).

Allowable Subject Matter

15. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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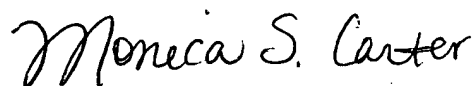
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EAG
17 May 2006



MONICA CARTER
SUPERVISORY PATENT EXAMINER